

Message Text

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ACTION L-03

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 5643

INFO DEA HQS WASHDC

AMEMBASSY CARACAS

AMEMBASSY BUENOS AIRES

AMEMBASSY MONTEVIDEO

AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: SNAR, BR

SUBJECT: NARCOTICS: EXTRADITION OF FRANCISCO ULISES SCOCOZZA-
VALIENTE

REF: DEA 6724

1. FEDERAL POLICE SOURCE INFORMED EMBASSY THAT ATTORNEY GENERAL WILL WITHDRAW FROM SUPREME COURT REQUEST FOR EXTRADITION OF SUBJECT ON THE GROUNDS THAT IT HAS NOT BEEN CONCLUSIVELY PROVEN THAT FRANCISCO ULISES - AND NOT HIS BROTHER, ULISES MARIO FELIPE - WAS THE PERSON WANTED IN THE US ON NARCOTICS CHARGES. ATTORNEY GENERAL IS PREPARED TO PROVIDE REASONABLE PERIOD OF TIME (UNSPECIFIED AND BEING VERIFIED) SO THAT ADDITIONAL ELEMENTS OF PROOF CAN BE FORTHCOMING THAT FEDERAL POLICE ARE HOLDING THE RIGHT MAN. THE ATTORNEY GENERAL'S DECISION HAS BEEN PROMPTED BY THE CERTAINTY THAT, ON BASIS OF THE PRESENT EVIDENCE, THE SUPREME COURT WILL DECIDE AGAINST EXTRADITION.

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2. IT IS THE EMBASSY'S UNDERSTANDING THAT THE MAJOR

ELEMENT OF PROOF AGAINST SUBJECT IS HIS IDENTIFICATION IN A PHOTOGRAPH BY EMILIO QUINTERO. SINCE QUINTERO IS PRESENTLY SERVING SENTENCE IN THE US, IT WOULD BE IMPRACTICAL TO BRING HIM TO BRAZIL FOR A CONFRONTATION WITH SUBJECT. THE FEDERAL POLICE INFORMED US THAT THE FAMILY RESEMBLANCE BETWEEN THE BROTHERS IS SUFFICIENTLY STRONG SO THAT A REASONABLE DOUBT IS INESCAPABLE. PHOTOGRAPHS AND FINGERPRINTS NOW IN OUR POSSESSION ONLY PROVE THAT WE HAVE ONE OF THE SCOCOZZA VALIENTE BROTHERS AND NOT NECESSARILY THE RIGHT ONE.

3. IT WAS THE ATTORNEY GENERAL'S SUGGESTION, ACCORDING TO THE FEDERAL POLICE SOURCE, THAT ONE WAY TO RESOLVE THE PROBLEM WAS TO REQUEST ADMINISTRATIVE EXPULSION OF THE SUBJECT. THE BURDEN OF PROOF WOULD NOT BE AS SEVERE. THIS WOULD REQUIRE, ACCORDING TO BOTH MEN, THE EMBASSY TO CONVINCE THE MINISTER OF JUSTICE TO ACT ON THE EXPULSION REQUEST IN VIEW OF THE FLAP POTENTIAL OF THE CASE. SUBJECT'S ATTORNEY HAS BUILT UP CASE OF "MISTAKEN IDENTITY" IN THE PUBLIC MEDIA (BRASILIA'S 6117) AND HAS ACCUSED FEDERAL POLICE OF PERSECUTING UNFORTUNATE WHOSE ONLY VIOLATION WAS TO ENTER THE COUNTRY ILLEGALLY IN SEARCH OF AN HONEST LIVING. IT IS HIGHLY LIKELY THAT SUBJECT'S ATTORNEY WILL CHARGE IN THE PRESS THAT EXPULSION WAS ARRANGED BETWEEN GOB-US BECAUSE WE WERE BOUND TO LOSE IN COURT. IT WOULD BE HIGHLY EMBARRASSING, OF COURSE, FOR ALL CONCERNED IF SUBJECT WAS EXPELLED AND IT WAS SUBSEQUENTLY DETERMINED THAT HE WAS THE WRONG MAN. THE EXPULSION PROCESS HAS SO MUCH POTENTIAL FOR A THOROUGHLY MESSY CASE - AND WITH NO ASSURANCE THAT THE MINISTER OF JUSTICE WOULD BE WILLING TO ACCEPT THE HEAT - THAT THE EMBASSY CONSIDERS IT AN UNACCEPTABLE RISK.

4. UNDER THE ABOVE CIRCUMSTANCES, EMBASSY BELIEVES THE ONLY FEASIBLE COURSES OF ACTION WOULD BE:

A. TO SEEK OTHER ELEMENTS OF PROOF THROUGH THE TESTIMONY OF QUINTERO THAT WOULD CONCLUSIVELY IDENTIFY SCOCOZZA VALIENTE AS THE UNDENIABLE SUBJECT
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OF OUR EXTRADITION REQUEST. EMBASSY HAS NOTED DEA 7313. UNFORTUNATELY, SCOCOZZA-VALIENTE'S HERNIA CONDITION IS IN THE PUBLIC DOMAIN (SEE BRASILIA 3787, PORTO ALEGRE A-2), AND OUR ESTIMATE IS THAT SUCH AN ASSERTION AT THIS TIME WOULD BE VIEWED WITH SUSPICION BY THE COURT.

B. TO SUPPLY THE FEDERAL POLICE WITH SUFFICIENT

TESTIMONY OF THE ELEMENTS OF THE CASE IN ORDER FOR THEM TO INSTITUTE THEIR OWN FORMAL INVESTIGATION OF SCOCOZZA VALIENTE'S PARTICIPATION IN NARCOTICS TRAFFIC.

5. COURSE (A) WOULD ENABLE US TO PURSUE EXTRADITION REQUEST AND IS THE EMBASSY'S PREFERRED COURSE OF ACTION; COURSE (B) WOULD PERMIT FEDERAL POLICE TO INITIATE EXPULSION ONCE IT WAS ESTABLISHED THAT SCOCOZZA VALIENTE WAS INDEED A NARCOTICS TRAFFICKER. THIS WOULD BE PREFERABLE TO ATTORNEY GENERAL'S SUGGESTION, BUT WOULD STILL RETAIN MANY OF THE SAME OBJECTIONS CITED ABOVE.

6. ASAIC CHRETIEN CONCURS.
CRIMMINS

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